

Disqualification for appointment as a member

1. A person is disqualified from appointment as a member of the Council if that person—
 - (a) has at any time been convicted—
 - (i) in the British Islands of a criminal offence, or
 - (ii) elsewhere of an offence which, if committed in any part of the British Islands, would constitute a criminal offence,

and the offence involved dishonesty or deception or the final outcome of the proceedings was that the person was sentenced to a term of imprisonment (whether suspended or not) of over three months;
 - (b) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
 - (aa) for which the person was responsible or to which the person was privy, or
 - (bb) which the person by their conduct contributed to or facilitated, or
 - (ii) under—
 - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽¹⁾(powers of Court of Session to deal with management of charities), or
 - (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005⁽²⁾(powers of the Court of Session),

from being concerned with the management or control of any body;
 - (c) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
 - (d) at any time has been adjudged bankrupt or sequestration of his estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986⁽³⁾;
 - (e) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;
 - (f) is subject to—
 - (i) a disqualification order or disqualification_undertaking under the Company Directors Disqualification Act 1986⁽⁴⁾,
 - (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989⁽⁵⁾,
 - (iii) a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁶⁾, or

(1) 1990 c.

(2) asp

(3) 1986 c.45; Schedule 4A was inserted by section 257 of, Schedule 20 to, the Enterprise Act 2002 (c.40).

(4) 1986 c.46.

(5) S.I. 1989/....

(6) S.I. 2002/....

- (iv) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of a county court administration order);
- (g) has at any time been subject to any investigation or proceedings concerning his fitness to practise by any licensing body anywhere in the world, the final outcome of which was—
 - (i) the person's suspension from a register held by the licensing body, and that suspension has not been terminated,
 - (ii) the person's erasure from a register held by the licensing body or decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or
 - (iii) a decision that had the effect only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (h) has at any time been subject to any investigation or proceedings concerning his fitness to practise by the Council, in the course of which or where the final outcome has been—
 - (i) the person's registration in the register has been suspended (including by an interim suspension order or an order under section 13L of the Act) and that suspension has not been terminated,
 - (ii) the person has been erased from the register (whether or not the person is subsequently restored to the register), or
 - (iii) the person's registration in the register has been made conditional upon their compliance with any requirement (including by an order for interim conditional registration or an order under section 13L of the Act) and that requirement has not been lifted; or
 - (iv) **Financial penalty orders? Directors of corporate bodies where the corporate body has been erased, suspended etc? What should be included here?;** or
- (i) is subject to any investigation or proceedings concerning his fitness to practise by—
 - (i) any licensing body anywhere in the world, or
 - (ii) the Council.

Removal of members from office

- 2.—(1) A member shall be removed from office by the Privy Council, if—
- (a) the member resigns, which a member may do at any time by a notice in writing to the Privy Council;
 - (b) in the case of a lay member, that member becomes a registered optometrist or registered dispensing optician or director of a registered body corporate or obtains a qualification that makes that member a suitably qualified person for the purposes of making an application for registration under the Opticians Act 1989;
 - (c) the member becomes a person of the type mentioned in article 5(a) to (c);
 - (d) the member becomes a person of the type mentioned in article 5(d) to (g), whether or not they thereafter cease to be such a person;
 - (e) in the case of a registrant member, the member becomes the subject to any investigation or proceedings concerning his fitness to practise by the Council, in the course of which or where the final outcome has been that—
 - (i) the member's registration in the register is suspended (including by an interim suspension order),
 - (ii) the member is erased from the register, or

- (iii) the member's registration in the register has been made conditional upon the member's compliance with any requirement (including by an order for interim conditional registration), or
- (iv) **financial penalty orders? Director of corporate bodies where the corporate body has been erased, suspended etc? What is to be included here?**
and the proceedings relating to that particular sanction have reached their final outcome;
- (f) the Privy Council is satisfied that the member's level of attendance at meetings of the Council falls below a minimum level of attendance acceptable to the Privy Council, having regard to—
 - (i) any recommended minimum levels of attendance that the Council have set in their standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;
- (g) the Privy Council is satisfied the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council have included in their standing orders;
- (h) the Privy Council is satisfied that the member is no longer able to perform their duties as a member of the Council because of adverse physical or mental health;
- (i) the Privy Council is satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of optometrists, dispensing opticians, and bodies corporate carrying on business as an optometrist or a dispensing opticians or both..

(2) A member who becomes, or may be about to become, a person to whom paragraph (1)(b) to (e) applies must notify the Privy Council and the Council in writing of that fact as soon as the person becomes aware of it.

(3) Any member or employee of the Council may, and the chair shall, notify the Privy Council if they are of the view that the Privy Council may need to exercise its functions under paragraph (1).

Suspension of members from office

3.—(1) The Privy Council may suspend a member from office by a notice in writing served on the member—

- (a) if the Privy Council has reasonable grounds for suspecting that the member has become a person to whom article 6(1)(b) to (e) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Privy Council is considering whether or not it is satisfied as to the matters set out in article 6(1)(f) to (i);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body anywhere in the world, or
 - (ii) the Council,

and the Privy Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

- (d) if the member is subject to any investigation or proceedings in the British Islands relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the British Islands, would constitute a criminal offence, and—
 - (i) either—

- (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment (whether suspended or not) of over three months, and
- (ii) the Privy Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's fitness to practise is or are ongoing.

(2) The notice in writing under paragraph (1) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than six months.

(3) If a member has been suspended under standing orders of the Council that make provision with regard to the suspension of a member from office, pending confirmation or termination of that suspension in accordance with the provisions of this Order, the Privy Council shall consider the matter with a view to determining whether or not to suspend the member under paragraph (1) or to remove the member under article 6(1).

(4) If after considering the matter under paragraph (3), the Privy Council decides not to suspend the member, and not to remove the member from office, the Council must terminate their suspension of the member under their standing orders.

(5) The Privy Council—

- (a) may at any time review a suspension of a member by it; and
- (b) shall review any suspension of a member by it after three months from the start of the period of suspension, if requested to do so by the suspended member.

(6) Following a review, the Privy Council may—

- (a) terminate the suspension;
- (b) if that review is within three months of the end of a period of suspension, extend the suspension for a further period of up to six months from the date on which the suspension would otherwise come to an end.

(7) The Privy Council shall notify the suspended member in writing of the outcome of any review and that notice in writing shall include the reasons for any decision taken.